

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

OMAR WASHINGTON,

Plaintiff,

-against-

DANIEL MARTUSCELLO III; LT.
CLARENCE FISHER; SGT. MARIBEL
LOPEZ; SGT. LATESHA BELL; OFFICER
KAYLA WHITE,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: **11/07/2024**

24-CV-7630 (NSR)

ORDER OF SERVICE

NELSON S. ROMÁN, United States District Judge:

Plaintiff, who currently is incarcerated at Sing Sing Correctional Facility, brings this action, *pro se*, under 42 U.S.C. § 1983, alleging that Defendants violated his rights under the First Amendment and the Religious Land Use and Institutionalized Persons Act. By order dated November 4, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Commissioner Daniel Martuscello III, Lieutenant Clarence Fisher, Sergeant Maribel Lopez, Sergeant Latesha Bell, and Office Kayla White through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each defendant. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to issue a summons for each Defendant, complete the USM-285 form with the address for each Defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: November 7, 2024
White Plains, New York



NELSON S. ROMÁN
United States District Judge

SERVICE ADDRESS FOR EACH DEFENDANT

1. Commissioner Daniel Martuscello III
New York State Department of Corrections and Community Supervision
The Harriman State Campus, Building #2
1220 Washington Avenue
Albany, NY 12226-2050
2. Sergeant Maribel Lopez
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
3. Lieutenant Clarence Fisher
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
4. Sergeant Latesha Bell
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562
5. Officer Kayla White
Sing Sing Correctional Facility
354 Hunter Street
Ossining, NY 10562